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OFFICE OF THE SEC

Ms. Nancy Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

4-549

Re: Petition for Interpretive Guidance on Business Risk of Global Warming Regulation

Dear Ms. Morris,

We are writing on behalf of the Free Enterprise Action Fund ("FEAOX"), a publicly-traded mutual fund, to petition the U.S. Securities and Exchange Commission ("SEC") to issue interpretive guidance pursuant to the Securities Act of 1933 (the "Act") that would require registrants to disclose to shareholders the business risks of laws and regulations intended to address global warming concerns.

While it is widely recognized that global warming regulations are likely to materially and adversely impact corporate earnings and shareholder value, few publicly-owned corporations have disclosed these business and financial risks to shareholders. In addition to this failure to disclose, many corporations that are actively lobbying for, and otherwise promoting global warming regulation are not disclosing such risky activities to shareholders.

Case Study: U.S. Climate Action Partnership (USCAP)

To investigate whether publicly-owned corporations are disclosing the business risks of global warming regulation to their shareholders, we examined the most recent annual disclosures[1] made by publicly-owned corporations[2] that belong to the U.S. Climate Action Partnership[3] (USCAP), a coalition of publicly-owned corporations and environmental activist groups that are actively lobbying for federal regulation of greenhouse gas emissions.

[1] U.S. Securities and Exchange Commission (SEC) Form 10-K for the most recent fiscal year.
[2] USCAP members examined included: Alcoa (AA), Alcan (AL), American International Group (AIG), Boston Scientific (BSX)< Caterpillar (CAT), Conoco-Phillips (COP), Deere & Co. (DE), Dow Chemical Co. (DOW), Duke Energy Corp (DUK), EI DuPont de Nemours & Co. (DD), Ford Motor Co. (F), Florida Power & Light (FPL), General Electric Co. (GE), General Motors Corp (GM), Johnson & Johnson (JNJ), Marsh and McLennan (MMC), NRG Energy (NRG), PepsiCo (PEP), PG&E (PCG), PNM Resources (PNM) and Xerox (XRX).
[3] http://www.us-cap.org

The results are summarized in the attached Appendix.

We found that the 21 USCAP members have disclosed to shareholders a wide variety of business risks in their most recent Form 10-K filings. But we found that only 5 corporations specifically disclosed that global warming regulation is a business risk. We also found that since the formation of USCAP in early 2007, only five corporations disclosed in SEC filings[4] their membership in USCAP. To date, no USCAP member has disclosed to shareholders that the group's lobbying activities may actually harm corporate earnings and shareholder value, and may not be in shareholders' best interests.

Our results reveal that USCAP members are keeping shareholders in the dark with respect the potential material adverse consequences on corporate earnings and shareholder value of greenhouse gas regulation. Additionally, USCAP members have so far failed to disclose that they may actually be lobbying against their own earnings and shareholder value. We did not determine whether this failure to disclose the business risks of such regulation and lobbying is intentional or simply negligent.

Support for global warming regulation is already causing a series of unintended consequences for USCAP members. Congress and the state of California, for example, are considering legislation to ban the incandescent light bulb and force consumers to purchase compact fluorescent light bulbs (CFLs). Because USCAP member GE manufactures CFLs in China, it now faces labor problems with its U.S. employees who make incandescent bulbs. To educate the public about the threats CFLs pose to their jobs, GE employees established a web site[5] and protested at the 2007 annual shareholder meeting.

Moreover, GE's investment in increasing the efficiency of incandescent bulbs is jeopardized by the legislative bans.[6]

GE also has a business interest in coal – a major source of carbon dioxide emissions. Not only does GE manufacture turbines for traditional coal-fired power plants, it is also developing Integrated Gasification Combined Cycle (IGCC) technology – a system for capturing carbon dioxide from coal-fired electricity plants. Although GE needs greenhouse gas regulations to drive growth for IGCC, its entire coal business is threatened by special interest groups that are using the global warming issue to advocate an outright ban on coal-fired power plants. Recent pressure from special interest groups resulted in the cancellation by TXU Corp. of eight coal-fired power plants the company planned to build. Because of the cancellation of the coal-fired power plants caused, TXU cancelled its orders with GE for steam turbine generators.[7]

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[4] SEC Form 8-K.
[5] *See*, ScrewThatBulb.com.
[6] *See* http://online.wsj.com/article/SB118973485406827339.html.
[7] Ibid.